



# Town of Litchfield

## Internal Controls Over Selected Financial Activities

### Report of Examination

Period Covered:

January 1, 2010 — November 30, 2011

2012M-55



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

June 2012

Dear Town Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Town Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Town of Litchfield, entitled Internal Controls Over Selected Financial Activities. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller  
Division of Local Government  
and School Accountability*



## State of New York Office of the State Comptroller

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# EXECUTIVE SUMMARY

The Town of Litchfield (Town) is located in Herkimer County and has a population of approximately 1,500 residents. The Town is governed by the Town Board (Board), which comprises four elected members and an elected Town Supervisor (Supervisor). For the fiscal year ended December 31, 2011, the Town's budgeted appropriations totaled about \$170,000 for the general fund and \$405,000 for the highway fund.

### **Scope and Objective**

The objective of our audit was to evaluate the internal controls over selected financial activities for the period January 1, 2010 to November 30, 2011. Our audit addressed the following related questions:

- Did any Town officials have prohibited interests in contracts with the Town?
- Did the Town maintain complete and adequate fuel inventory records to safeguard fuel?
- Did the Board perform required annual audits?

### **Audit Results**

We identified a Board member who had a 25 percent ownership interest in a local dairy farm that purchased a surplus highway vehicle from the Town at a cost of \$15,502. Although the Town solicited competitive bids for the vehicle in which the dairy farm was the highest bidder, and the Board member abstained from voting on the sale of the vehicle, General Municipal Law prohibits this type of contract. Such transactions may create the appearance of impropriety and/or may result in the improper enrichment of Town officials at taxpayer expense.

The Town does not ensure that its fuel supplies are properly accounted for and adequately safeguarded. The Highway Superintendent does not maintain perpetual inventory records that collectively show the amount of beginning inventory, fuel purchased, fuel consumed, and the balance of fuel remaining. In addition, no one performs a physical inventory of the fuel on hand, and the Superintendent does not compare the mileage per maintenance records for specific vehicles to their fuel consumption records for reasonableness. Our analysis of the Town's gasoline and diesel fuel purchases and recorded usage for a sample period disclosed that the amount of diesel fuel purchased exceeded the amount of fuel consumed to the point where the ending inventory would have exceeded the tank capacity by just over 10 percent. This difference indicates that the fuel vendor billed the Town for more fuel than it delivered and/or that all fuel usage was not properly recorded in the Town's records. Strengthening

controls over fuel inventories would give Town officials increased assurance that Town-purchased fuel is safe from loss or misuse and is used appropriately.

The Board did not perform, or provide for, annual audits of the records and reports of the Supervisor, Town Clerk, Tax Collector, Town Justice or Code Enforcement Officer for fiscal years ended 2009 or 2010. The Board's failure to examine these records and reports hinders its ability to maintain accountability for Town assets and develop safeguards to protect those assets from loss, waste or abuse.

### **Comments of Local Officials**

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

# Introduction

## Background

The Town of Litchfield (Town) is located in Herkimer County and has a population of approximately 1,500 residents. The Town is governed by the Town Board (Board), which comprises four elected members and an elected Town Supervisor (Supervisor). The Board is the legislative body responsible for the general management and control of the Town's financial and operational affairs. The Town provides various services to its residents, including maintaining and improving Town roads, snow removal and general government support. The Town's 2011 budgeted expenditures totaled approximately \$170,000 for the general fund and \$405,000 for the highway fund, which were funded primarily with real property and sales taxes, State aid, and revenue from services to other governments.

The Supervisor serves as the chief executive and chief fiscal officer and is responsible for the receipt, disbursement and custody of Town moneys, maintaining accounting records, and providing financial reports. During our audit period, the former Supervisor resigned in November 2010 and another Board member was appointed to serve as Deputy Supervisor and assume the former Supervisor's duties. The Board governed Town operations with a four member Board for the remainder of our audit period, and one of the Board members was subsequently elected to the position of Supervisor effective January 1, 2012. Although the Board is primarily responsible for the effectiveness and proper functioning of the Town's internal controls, department heads, including the Highway Superintendent (Superintendent), also share the responsibility for ensuring that internal controls are adequate and working properly.

## Objective

The objective of our audit was to evaluate internal controls over selected financial activities. Our audit addressed the following related questions:

- Did any Town officials have prohibited interests in contracts with the Town?
- Did the Town maintain complete and adequate fuel inventory records to safeguard fuel?
- Did the Board perform required annual audits?

## Scope and Methodology

We examined the Board's process for identifying prohibited conflicts of interest, controls over fuel inventories, and the Board's annual audit process for the period January 1, 2010 to November 30, 2011.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix B of this report.

**Comments of  
Local Officials and  
Corrective Action**

The results of our audit and recommendations have been discussed with Town officials and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of the General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Town Clerk's office.

## Prohibited Interest

The Board should take appropriate actions, such as requiring training, to help ensure that Town officers and employees do not enter into contracts with the Town in which they have a prohibited interest. Article 18 of the General Municipal Law (GML) limits the ability of municipal officers or employees to enter into contracts in which both their personal financial interests and their public powers and duties conflict. Unless a statutory exception applies, the GML prohibits municipal officers or employees from having an “interest” in “contracts” with the municipality that they serve when they also have the power or duty – either individually or as a board member – to negotiate, prepare, authorize, or approve the contract; to authorize or approve payment under the contract; to audit bills or claims under the contract; or to appoint an officer or employee with such powers or duties. For this purpose, a contract includes any claim, account, demand against or agreement with a municipality. Municipal officials and employees have an interest in a contract when they receive a direct or indirect pecuniary (monetary) or material benefit as a result of a contract. Municipal officers and employees are also deemed to have an interest in certain contracts, including the contracts of a firm, partnership or association of which they are a member or employee.

As a rule, interests in actual or proposed contracts on the part of a municipal officer or employee, or his or her spouse, must be publicly disclosed in writing to the governing body of the municipality and included in the official record of the proceedings of the governing body. The GML also requires the chief executive officer of a municipality to cause a copy of the conflict of interest provisions of the GML (sections 800 - 809) to be posted in each public building under the municipality’s jurisdiction in a place that is conspicuous to its officers and employees.

We identified a former Board member (now the Town Supervisor) who had a 25 percent ownership interest in a local dairy farm operating as a limited liability company (LLC). This company essentially entered into a contract with the municipality when it purchased a surplus highway vehicle from the Town in January 2010 at a cost of \$15,502. Because the Board member had a 25 percent ownership interest in the LLC, the Board member is deemed to have an interest in this contract. As a member of the Board, this individual also had a number of powers and duties that could give rise to a prohibited interest, including the power to authorize or approve the sale of personal property. Therefore, unless a statutory exception applied, the Board member’s interest in the contract was prohibited.

Although the Town solicited competitive bids for this vehicle, the LLC was the highest bidder, and the Board member abstained from voting on the sale of the vehicle, the GML does not provide a statutory exception for contracts solely because they are competitively bid or a statutory exception for an individual's abstention from voting. It also appears none of the other statutory exceptions in the GML applied to the contract in question. As a result, the Board member had a prohibited interest in this contract. The Board member told us that he was not aware of the GML requirements that prohibit Town officials from entering into certain contracts with the Town. Finally, the Town Supervisor did not cause a copy of sections 800 through 809 of the GML conflict of interest provisions to be posted in each of the Town buildings.

When Town officials or employees, in their private capacities, conduct business with the Town in which they serve, the public may question the appropriateness of the transactions. Such transactions may create an actual conflict of interest or the appearance of impropriety and/or may result in the improper enrichment of the officials or employees at taxpayer expense.

## **Recommendations**

1. The Board should take appropriate actions, such as requiring training, to help ensure that the Town does not enter into contracts in which a Town officer or employee has a prohibited interest.
2. The Town Supervisor should cause a copy of sections 800 through 809 of the GML conflict of interest provisions to be posted in each building in a place conspicuous to Town officers and employees.

## Fuel Inventory Records

It is important that Town officials ensure that the Town's fuel supplies are properly accounted for and adequately safeguarded to protect them from waste and abuse. A good system of internal control includes perpetual inventory records that identify quantities delivered, consumed, and on hand. Periodic reconciliations of fuel inventory records to physical fuel inventories<sup>1</sup> and reviews of mileage records for Town vehicles must be performed to help identify fuel loss due to leaks or unauthorized use. Material discrepancies should be promptly investigated and resolved.

The Town purchased approximately \$71,000 in gasoline and diesel fuel during our audit period. The Highway Superintendent (Superintendent) does not ensure that the Town's fuel supplies are properly accounted for and adequately safeguarded. Although the Superintendent uses a daily planner to log the amount fuel consumed by each vehicle, he does not maintain perpetual inventory records that collectively show the amount of beginning inventory, fuel purchased, fuel consumed, and the resulting balance of fuel remaining in inventory. The Superintendent told us that he did not believe perpetual inventory records were necessary because he has never suspected missing fuel.

Also, no one performs a physical inventory of the fuel on hand. Therefore, an accurate accounting of the fuel physically in the tanks cannot be performed at any given point in time. Furthermore, the Superintendent did not record the total meter readings displayed on the fuel pumps, which could have been used to confirm the amount of gallons of fuel recorded for specific vehicles in his daily planner. Lastly, the Superintendent did not compare the mileage per maintenance records for specific vehicles to their fuel consumption records for reasonableness.

We performed an analysis of the Town's gasoline and diesel fuel purchases for a sample period<sup>2</sup> to determine if the amount of fuel purchased was reasonable as compared to the amount of fuel consumed as recorded in the daily planner maintained by the Superintendent. Based on the records, the amount of diesel fuel purchased exceeded the amount of diesel fuel consumed to the point where the ending inventory would have exceeded the tank capacity by just over 10

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<sup>1</sup> Physical inventories taken by, for example, the use of a measuring stick or tank gauge.

<sup>2</sup> November 10, 2010 to March 9, 2011 for gasoline and January 2, 2010 to April 30, 2010 for diesel fuel.

percent<sup>3</sup> at one point during the period. This difference indicates that the fuel vendor billed the Town for more fuel than it delivered and/or that all fuel usage was not properly recorded in the daily planner. This discrepancy illustrates the need for the Superintendent to maintain perpetual inventory records for fuel inventories, periodically reconcile the inventory records to physical inventories and to investigate differences. Strengthening internal controls would give Town officials increased assurance that Town-purchased fuel is safe from loss or misuse and is used appropriately.

## Recommendations

3. The Superintendent should maintain perpetual inventory records that identify the beginning inventory, and the quantities of fuel purchased/delivered, dispensed, and on hand. These records should be periodically reconciled to physical inventories of fuel on hand. Any differences should be promptly investigated and resolved.
4. The Superintendent should compare the fuel consumption records with pump meter readings and mileage recorded in the vehicle maintenance records to help verify the reasonableness of the recorded fuel usage.

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<sup>3</sup> At the beginning of our four-month review period, we conservatively assumed no ending diesel fuel inventory in the Town's 1,000-gallon diesel tank. We then calculated a running balance of fuel inventory by comparing gallons purchased to gallons consumed. Midway through our review period, our running balance had reached 1,107 gallons thus, exceeding tank capacity.

## Annual Audit

Town Law requires the Board to annually audit, or to provide for the audit of, the records and reports of any Town officer or employee who received or disbursed moneys on behalf of the Town in the preceding fiscal year. An annual audit helps the Board fulfill its fiscal oversight responsibilities by providing an opportunity to assess the reliability of the books, records, and supporting documents, and to identify conditions that need improvement. A thorough annual review also provides the Board an added measure of assurance that the financial records and reports contain reliable information on which to base management decisions. An annual audit is particularly important in smaller operations which may not have an adequate system of internal controls because employees are required to perform duties that should be segregated.

The Board did not perform, or provide for, annual audits of the records and reports for fiscal years ended 2009 or 2010. Board members told us that they were unaware of the annual audit requirements in Town Law. Specifically, the Board did not audit, or cause to be audited, the financial records and reports of the Supervisor, Town Clerk, Tax Collector, Town Justice and Code Enforcement Officer. The Board's failure to examine these records and reports hinders its ability to maintain accountability for Town assets and develop safeguards to protect those assets from loss, waste or abuse. Without an annual audit, Town officials are at risk of mishandling public moneys and failing to detect and correct errors, irregularities, or fraudulent activity in a timely manner.

### **Recommendation**

5. The Board should annually audit, or cause to be audited, the financial records and reports of all Town officers and employees who receive or disburse moneys on behalf of the Town.

**APPENDIX A**  
**RESPONSE FROM LOCAL OFFICIALS**

The local officials' response to this audit can be found on the following pages.

# Town Of Litchfield

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**Supervisor**  
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**Clifford Coffin**  
**Highway Superintendent**  
804 Cedarville Road  
Ilion, NY 13357  
315-894-2935

June 15, 2012

Rebecca A. Wilcox, Chief Examiner  
Syracuse Regional Office  
State Office Building, Room 409  
333 E. Washington Street  
Syracuse, NY 13202-1428

Dear Ms. Wilcox:

This letter is a response to the draft report of examination of the audit that was conducted by the Office of the State Comptroller for the period of January 1, 2010 - November 30, 2011. The report was received on May 17, 2012, by the Town of Litchfield. All members of the Litchfield Town Board, as well as the Highway Superintendent, have carefully read through the findings. We would like to make the following comments:

**Prohibited Interest:**

The Town Board Member, now the Town Supervisor acknowledges that he was unaware of section 800-809 of General Municipal Law concerning prohibited interest. The current Supervisor does understand that section 800-809 of GML does prohibit the Company that he has a 25% interest in from buying any asset from the Town that he serves. The business shall not enter into any contract again with the town.

While the town board does not dispute the findings on this section of the audit, the town board wants to clarify that they believe there was no intent to do any wrong doing. The audit findings does not state that the surplus vehicle that the town sold was advertised multiple times in the town's official newspaper, The West Winfield Star. In addition, an advertisement was also placed in the Utica OD in order to get better coverage for possibly more competitive bids. The audit also does not state that the bids were sealed. The bids were opened by the town clerk with no town board member knowing what the bids were until they were read by the clerk. The current Supervisor, then a board member, abstained from voting on accepting the highest bid for the sale of the vehicle, which the draft report of the audit shows. The Town Board would like the record to show the bids for the vehicle were as follows:

Entwistle Bros farm LLC, \$15,502.00  
Kristen Linck, \$14,000.00  
Bob Conklin, \$12,000.00

**Fuel Inventory records:**

The Town Board and the Highway Superintendent of the Town of Litchfield have read through the audit report regarding fuel inventory records. The Highway Superintendent does not believe there was any missing fuel over the audit period. During the auditor's exit interview with the Supervisor and the Highway Superintendent it was noted that it was possible that the discrepancy with the fuel that was consumed compared to the fuel purchased could be from the Highway Superintendent not recording fill ups in his log book. It could be possible that there was fuel delivered before the audit period, but not paid for until the audit period began. The Highway Superintendent does now realize the importance of

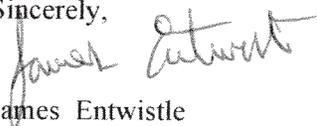
keeping perpetual fuel inventory records. The Town of Litchfield wants to make sure all taxpayer dollars are protected. The Town of Litchfield will strive to improve its internal controls.

Annual Audit:

The Town Board has read through the annual audit section of the audit. The Litchfield Town Board recognizes the importance of doing annual audits of all officials who receive or disperse money for the Town. The Town Board will now require annual reports of all Town officials handling money.

Thank you for your time and consideration in this matter.

Sincerely,



James Entwistle

Supervisor  
Town of Litchfield  
488 Jerusalem Hill Road  
Clayville, NY 13322  
Home phone: 315 894-8191  
mobile phone: 315 717-1399

## APPENDIX B

### AUDIT METHODOLOGY AND STANDARDS

Our overall goal was to examine internal controls over selected financial activities. To achieve our audit objective and obtain valid audit evidence, we performed the following audit procedures:

- We inquired as to Board efforts to identify and prevent potential conflicts of interest. We also examined Board minutes to identify public disclosures of interest.
- We obtained written representations from current and former Board members, and other Town officials, that disclosed their outside employment and business interests and those of their spouses during our audit period.
- We interviewed current Town officials about known outside employment or business interests of officials who held office during our audit period. We then reviewed the cash receipt and disbursement journals, deposit slips and cancelled checks from January 1, 2010 through November 30, 2011 to identify transactions that could result in a potential conflicts of interest.
- We interviewed the Highway Superintendent to obtain an understanding of the fuel inventory records maintained and physical controls over fuel inventory.
- We reviewed the daily planner records of fuel consumption prepared by the Highway Superintendent for reasonableness and to determine if they were up to date.
- We scanned abstracts and vouchers showing the number of gallons of gasoline and diesel fuel purchased for a sample period and compared gallons purchased to the amounts consumed as recorded in the Highway Superintendent's daily planner for reasonableness.
- We reviewed November 10, 2010 to March 9, 2011 for gasoline and January 2, 2010 to April 30, 2010 for diesel fuel. We selected these periods with no expectation that there would be greater or less variance than would be found in any other time during our audit period.
- We interviewed Board members to determine if the Board audited or caused to be audited the records and reports of all officers and employees who received and disbursed moneys.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

## APPENDIX C

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**AND SCHOOL ACCOUNTABILITY**

Andrew A. SanFilippo, Executive Deputy Comptroller  
Steven J. Hancox, Deputy Comptroller  
Nathaalie N. Carey, Assistant Comptroller

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